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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***In re: Petition of Nebraska Public Service Commission and Kansas Corporation
Commission for Declaratory Ruling or, in the Alternative, Adoption of Rules
Allowing State Universal Service Funds to Assess Charges on Nomadic Voice over
Internet Protocol Intrastate Revenues, WC Docket No. 06-122***

Dear Chairman Genachowski:

Subjecting voice over Internet protocol (VoIP) services to State universal service fees would alter settled expectations and could have a significant impact on investment, economic growth, and broader universal service reform. We are skeptical this would be a wise course, and urge you to afford this issue due consideration in a notice of proposed rulemaking (NPRM), rather than just address it in a declaratory ruling.

Internet services such as VoIP have been responsible for tremendous growth in the U.S. communications services, software, and equipment industries. Imposing regulation, fees, and taxes could weigh heavily on these markets, create a drag on innovation, and hinder our economy. Doing so through a patchwork of State regimes would exacerbate the effect.

Such considerations appropriately contributed to the Commission's determination in its 2004 *Vonage Order* that VoIP is inherently interstate in nature. Ruling that VoIP services are subject to State USF fees would not only contradict recent court decisions that the *Vonage Order* preempted such fees, it could create disruptive uncertainty by calling into question whether States may impose other regulations on VoIP services.

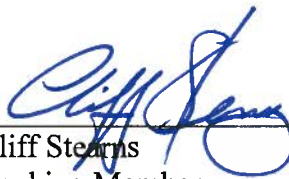
The issues raised in this proceeding are broadly significant to many industry participants and could have substantial collateral impact. The appropriate and well established means of creating or changing policy is to initiate a notice and comment rulemaking. Addressing this in a declaratory ruling would not only provide short shrift to a matter of consequence, it could also raise additional issues about retroactive applicability of such fees. Transparency and process strongly suggest the issuance of an NPRM rather than a declaratory ruling in this matter.

Please include a copy of this letter in WC Docket 06-122.

Sincerely,



Joe Barton
Ranking Member



Cliff Stearns
Ranking Member
Subcommittee on Communications, Technology,
and the Internet

cc: The Honorable Michael J. Copps
The Honorable Robert M. McDowell
The Honorable Mignon Clyburn
The Honorable Meredith Attwell Baker